



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: TRIEBEL=2A

In re Application of:)	Conf. No.: 5099
)	
Frederic TRIEBEL)	Art Unit: 1619
)	
Appln. No.: 10/041,600)	Examiner: K. Canella
)	
Date Filed or 102(e) date:)	Washington, D.C.
January 10, 2002)	
)	
For: USE OF MHC CLASS II LIGANDS...)	August 3, 2004
)	

REPLY TO RESTRICTION REQUIREMENT AND REMARKS

Customer Window, Mail Stop
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

The Office Action mailed June 25, 2004, in the nature of a requirement for restriction, has been carefully reviewed. Favorable consideration is respectfully requested.

Restriction has been required among what the Examiner considers to be two patentably distinct inventions, as follows:

MHC Class II ligands of CD4

MHC Class II ligands of LAG-3

Applicant hereby elects, with traverse, MHC Class II ligands of LAG-3.

This restriction requirement is traversed because it is respectfully submitted that the invention claimed herein is directed to at least one MHC Class II ligand. That is, claim 1 is directed to a tumor cell transfected with DNA coding for at least one MHC Class II ligands. This can be read as requiring that the tumor cell can be transfected with more than one MHC Class II ligand. Illustrative of these ligands, as recited in claim 2, is a tumor cell transfected with MHC Class II ligand of CD4 or MHC Class II ligand of LAG-3. Claim 3 calls for a process for preparing the tumor cell of claim 1 comprising... transfecting a tumor cell a DNA coding for at least one MHC Class II ligand. Claim 4 recites two of these ligands that can be used.

It is clear from a reading of the specification and the claims that the present invention is not directed solely to one ligand or another, but to MHC Class II ligands which may be CD4 or LAG-3.

This restriction requirement is also traversed on the basis of MPEP Section 803, that requires that the examiner examine the application on the merits if the search and examination of an entire application can be made without serious burden, even though it includes claims to independent or distinct invention. In searching for tumor cells transfected with DNA coding for at least one MHC Class II

Appln. No. 10/041,600
Response dated August 2, 2004
Reply to Office action of June 25, 2004


ligand, it would be expected that the search would be directed to different MHC Class II ligands. However, the present invention does not relate to either one MHC Class II ligand or another.

If the restriction requirement is maintained, it will be clear on the record that the PTO considers the twenty eight groups to be patentably distinct from one another *i.e.*, *prima facie* non-obvious from one another. This means that a reference identical to the one group would not render the other group *prima facie* obvious.

Favorable consideration is respectfully requested.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By 
Anne M. Kornbau
Registration No. 25,884

AMK:jab
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\S\Simo\Triebel2a\pto\restrict.doc